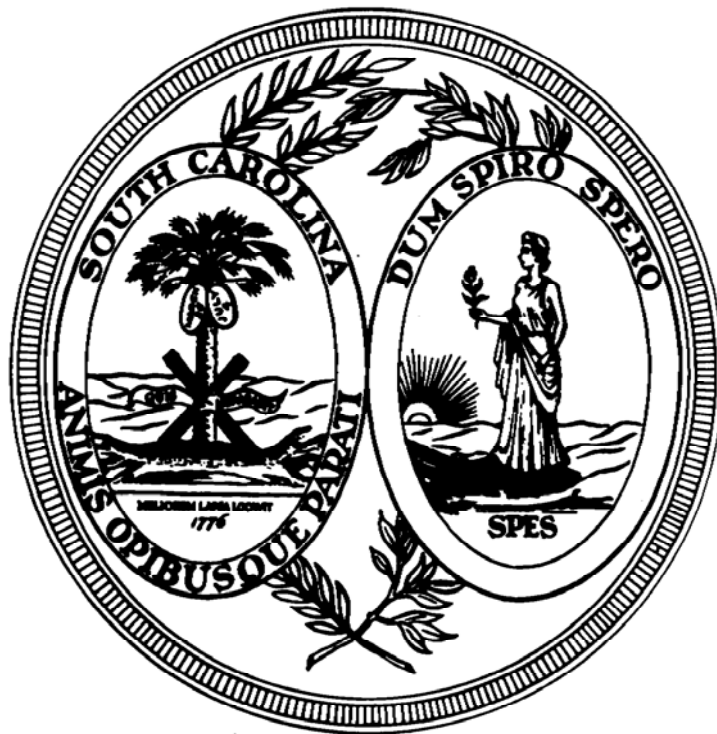




Regulation Number 61-111 Standards for Licensing Tattoo Facilities



Promulgated by the Board of Health and Environmental Control

Administered by the Division of Health Licensing

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DIVISION OF HEALTH LICENSING REGULATIONS

Provider-Wide Exceptions

In the interest of establishing reasonable standards that can be met by providers and yet do not compromise the health and well-being of the patients, residents, and participants cared for in South Carolina licensed facilities, it has been determined that alternative standards will be considered as acceptable. A Provider-Wide Exception (PWE) is the tool that is used to achieve a working relationship between the facility and their regulators.

Provider-Wide Exceptions for the facilities and activities that are licensed by the Division of Health Licensing can be downloaded from our Internet Website:

<http://www.scdhec.gov/health/licen/pwe.htm>

This website may also contain Position Statements that give guidance or interpretations of the regulation.

Provider-Wide Exceptions and Position Statements may also be obtained by contacting our office at (803) 545-4370. There is a ten-dollar (\$10.00) processing and handling fee assessed when copies are obtained through our office. Copies obtained over the Internet through our Website are free of charge. Payment must be by credit card, personal check or money order (no cash can be accepted).

Note: Some Provider-Wide Exceptions pre-date the publishing dates of specific Regulations established by the *State Register* and may no longer be in effect. In these instances, if there is a conflict between a PWE that pre-dates the publishing date of the regulation, the standard in the regulation shall supercede the PWE.

REGULATION 61-111

STANDARDS FOR LICENSING TATTOO FACILITIES

TABLE OF CONTENTS

| <u>SECTION</u> | <u>SUBJECT</u> | <u>PAGE</u> |
|--|-----------------------|--------------------|
| SECTION 100 - DEFINITIONS AND REFERENCES..... | | 4 |
| 101. Definitions..... | | 4 |
| 102. References..... | | 7 |
| SECTION 200 - LICENSE REQUIREMENTS AND FEES | | 8 |
| 201. License Requirements | | 8 |
| 202. Exceptions to the Standards | | 12 |
| SECTION 300 - ENFORCING REGULATIONS | | 12 |
| 301. General | | 12 |
| 302. Inspections/Investigations | | 12 |
| 303. Consultations | | 13 |
| SECTION 400 - ENFORCEMENT ACTIONS..... | | 13 |
| 401. General | | 13 |
| 402. Violation Classifications | | 13 |
| Frequency of violation | | 14 |
| SECTION 500 - POLICIES AND PROCEDURES | | 14 |
| 501. General | | 14 |
| SECTION 600 - STAFF | | 15 |
| 601. General | | 15 |
| 602. Inservice Training | | 15 |
| SECTION 700 - REPORTING..... | | 16 |
| 701. Incidents/Accidents | | 16 |
| 702. Fire/Disasters | | 16 |
| 703. Administrator Change | | 16 |
| 704. Facility Closure | | 16 |
| SECTION 800 - CLIENT RECORDS..... | | 17 |
| 801. Content | | 17 |
| 802. Record Maintenance | | 18 |
| SECTION 900 - CLIENT PROCEDURES AND SERVICES PROVIDED..... | | 18 |
| 901. General | | 18 |

| | |
|--|----|
| SECTION 1000 - CLIENT RIGHTS | 20 |
| 1001. Informed Consent | 20 |
| 1002. Grievances/Complaints | 20 |
| 1003. Procedures and Charges | 20 |
| SECTION 1100 - MAINTENANCE | 20 |
| 1101. General | 20 |
| SECTION 1200 - INFECTION CONTROL AND ENVIRONMENT | 20 |
| 1201. Staff Practices | 20 |
| 1202. Hepatitis B Vaccination | 21 |
| 1203. Infection Control | 21 |
| 1204. Sterilization of Equipment | 22 |
| 1205. Housekeeping | 23 |
| 1206. Infectious Waste | 24 |
| SECTION 1300 - EMERGENCY PROCEDURES | 24 |
| 1301. Emergency Call Numbers | 24 |
| 1302. Medical Emergencies | 24 |
| SECTION 1400 - FIRE PREVENTION | 24 |
| 1401. Arrangements for Fire Department Response | 24 |
| 1402. Inspections | 24 |
| 1403. Evacuation Plan | 25 |
| 1404. Fire Response Training | 25 |
| SECTION 1500 - DESIGN AND CONSTRUCTION | 25 |
| 1501. General | 25 |
| 1502. Local and State Codes and Standards | 25 |
| SECTION 1600 - FACILITY ACCOMMODATIONS | 25 |
| 1601. General | 25 |
| 1602. Restrooms | 27 |
| 1603. Location | 27 |
| SECTION 1700 - FIRE PROTECTION EQUIPMENT AND SYSTEMS | 28 |
| 1701. Firefighting Equipment | 28 |
| 1702. Flammable Liquids | 28 |
| 1703. Furnishings/Equipment | 28 |
| SECTION 1800 - MOBILE UNITS AND TEMPORARY LOCATIONS | 28 |
| 1801. General | 28 |
| SECTION 1900 - SEVERABILITY | 28 |
| 1901. General | 29 |
| SECTION 2000 - GENERAL | 29 |

| | |
|---------------------|----|
| 2001. General | 29 |
| INDEX | 30 |

SECTION 100 - DEFINITIONS AND REFERENCES

101. Definitions.

For the purpose of this regulation, the following definitions shall apply:

A. Administrator. The individual designated by the facility licensee who has the authority and responsibility to manage the facility.

B. Aftercare Suggestions. Specific written information presented on how to promote successful healing of various tattoo sites, including infection control information and instruction.

C. Aseptic Technique. Any health care procedure in which added precautions are used to prevent contamination of a person, object, or area by microorganisms, such as by use of sterile gloves and instruments.

D. Biohazardous. Any biological material capable of causing harm to humans, animals or plants, including both biohazardous organisms and agents.

E. Church. An establishment, other than a private dwelling, where religious services are usually conducted.

F. Client. A person who has a tattoo procedure performed on his or her body.

G. Consultation. A visit to a licensed facility by individuals authorized by the Department to provide information to the licensee to enable/encourage facilities to better comply with the regulations.

H. Contaminated or Contamination. The presence of blood, infectious materials, or other types of impure materials that have corrupted a surface or item through contact.

I. Department. The S.C. Department of Health and Environmental Control (DHEC).

J. Direct Supervision. The on-site training, observation, and evaluation of a supervisee by an experienced tattoo artist, including the provision of consultation and instruction.

K. Disinfection. The action of using an agent, *e.g.* 70% alcohol solution, that kills germs or microorganisms.

L. Experienced Tattoo Artist. An individual who has a current and valid tattoo license or permit from a state with requirements that meet the minimum requirements of this regulation, *i.e.*, training, age, or who has 1000 or more hours during the last three years performing tattooing procedures in a licensed or permitted tattoo facility, as confirmed in

writing by the licensee, from a state with requirements that meet the minimum requirements of this regulation, *i.e.*, training, age.

M. Facility. Any room, space, location, area, structure, mobile unit, or business, or any part of any of these places, where tattooing is practiced or where the business of tattooing is conducted and which is licensed by the Department as a tattoo facility.

N. Germicidal. Preventing infection by inhibiting the growth or action of microorganisms.

O. Injection Equipment. Equipment used in the practice of tattooing, including the needle(s) and the needle bar. Injection equipment does not include other parts of the tattoo machine such as grips, tubes (barrels), motors, coils, frames, binding posts, rubber bands, foot pedals, and power units.

P. Inspection. A visit by authorized individuals to a facility or to a proposed facility for the purpose of determining compliance with this regulation.

Q. Investigation. A visit by an authorized individual(s) to a licensed or unlicensed facility for the purpose of determining the validity of allegations received by the Department relating to this regulation.

R. Legally Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina (S.C.) to provide specific medical treatments, care, or services to staff members and/or clients. Examples of individuals who may be authorized by law to provide the aforementioned treatment/care/services include, but are not limited to, advanced practice registered nurses, physician's assistants.

S. License. A certificate issued by the Department to a facility that authorizes tattooing at that facility subject to the provisions of this regulation.

T. Licensee. The individual, corporation, partnership, organization, or public entity that has received a license to provide tattoo services and with whom rests the ultimate responsibility for compliance with this regulation.

U. Micropigmentation or Application of Permanent Cosmetics. A medical procedure performed above the jaw line and anterior to the ear and frontal hairline in which color or pigment is applied with a needle or electronic machine to produce a permanent mark visible through the skin. The procedure includes, but is not limited to, the application of eyeliner; eye shadow; and lip, eyebrow, or cheek color for purposes of enhanced aesthetics; scar concealment; and/or repigmentation of areas involving reconstructive surgery or trauma. Micropigmentation shall not include placing on the body any pictures, images, numbers, signs, letters of the alphabet, or designs. Medical micropigmentation shall not be construed to be included in the definition of tattooing as provided in Section 101.00.

- V. Minor. A person who has not attained the age of eighteen years.
- W. Mobile Unit. A vehicle, trailer, or portable unit from which tattooing is performed.
- X. New Facility. All new and existing buildings or portions of buildings that are being licensed for the first time, or being licensed after the previous licensee's license has been revoked, suspended, or voluntarily surrendered.
- Y. Parental Consent. Written affirmative agreement from a parent or legal guardian that he/she authorizes the tattoo procedure, in person, before the tattoo is applied.
- Z. Picture Identification. A valid driver's license from any state or an official photographic identification card issued by the South Carolina Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State, e.g., military ID, passport.
- AA. Playground. A place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation.
- BB. Release. The point at which the client's active involvement with a facility is terminated and the facility no longer maintains active responsibility for the client.
- CC. Repeat Violation. The recurrence of any violation cited under the same section of the regulation within a 36-month period. The time-period determinant of repeat violation status is not interrupted by ownership changes.
- DD. Revocation of License. An action by the Department to cancel or annul a license by recalling, withdrawing, or rescinding its authority to operate.
- EE. Sanitized or Sanitization. A procedure that reduces the level of microbial contamination so that the item or surface is considered safe.
- FF. School. An establishment, other than a private dwelling, where the customary processes of education are conducted.
- GG. Sharps. Any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin including, but not limited to, pre-sterilized, single-use needles, scalpel blades and razor blades.
- HH. Single-use. An item that is used 1 time on 1 client and then is properly disposed of by appropriate measures.
- II. Staff Member. An individual who is a compensated employee of the facility on either a full or part-time basis.

JJ. Sterile. The condition of an object when it is free of live bacteria, spores or other microorganisms, including pathogens (usually achieved by heat or chemical means).

KK. Sterilize or Sterilization. The approved procedure of making an object free of live bacteria, spores or other microorganisms including pathogens (usually by heat or chemical means).

LL. Suspension of License. An action by the Department requiring a licensee to cease operation for a period of time until such time as the Department rescinds that restriction.

MM. Tattoo Artist. A staff member 21 years of age or older who practices body tattooing at the tattoo facility and who meets the requirements of this regulation, including both experienced tattoo artists and tattoo artist trainees.

NN. Tattoo Artist Trainee. A staff member under the tutelage of an experienced tattoo artist who is in the process of acquiring 1000 hours of tattoo procedures training as required in Section 601.F.

OO. Tattoo or Tattooing. To indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments. The practice of tattooing does not include the removal of tattoos, nor the practice of branding, cutting, scarification, skin braiding, or the mutilation of any part of the body.

PP. Tattoo Procedures Training. Training that includes hands-on tattooing performed on clients and other tattooing-related activities including sterilization techniques.

QQ. Temporary Location. A short-term fixed location at which tattooing is licensed and performed for a specified period of not more than fourteen (14) days.

RR. Work Station. A work area where tattoo procedures are performed and that meets the requirements as set forth in Section 1601.A.

102. References

The following publications are referenced in these regulations:

- A. Regulation 61-9, *Water Pollution Control Permits*;
- B. Regulation 61-67, *Standards of Wastewater Facility Construction*;
- C. Regulation 61-105, *Infectious Waste Management*;
- D. American Association of Blood Banks (Blood Products Advisory Committee, March 14, 2002);

E. Bloodborne Pathogens Standards, Occupational Safety and Health Act of 1970 (OSHA 29 CFR 1910.1030, January, 18, 2001);

F. Centers for Disease Control and Prevention (*CDC Personnel Health Guideline*, June, 1998);

G. National Fire Protection Association (NFPA 30, 2003; NFPA 99, 2002; NFPA 701, 2004).

SECTION 200 - LICENSE REQUIREMENTS AND FEES

201. License Requirements (II)

A. License. (I)

1. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent his/her/itself (advertise or market) as a tattoo facility in S.C. without first obtaining a license from the Department. Facilities that perform tattooing prior to the effective date of licensing are in violation of S.C. Code Ann. Section 44-34-10, *et seq.*, (1976, as amended).

2. When it has been determined by the Department that tattooing is being performed at a location, and the owner has not been issued a license from the Department to perform such procedures, the owner shall cease operation immediately.

3. Current or previous violations of the S.C. Code of Laws and/or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility or addition to an existing facility that is owned or operated by the licensee. The facility shall provide only the procedures or services it is permitted to provide pursuant to the definition in Section 101.S. of this regulation.

B. Compliance. An initial license shall not be issued to an owner/operator until the licensee has demonstrated to the Department that the facility is in substantial compliance with the licensing standards. In the event a licensee who already has a facility or activity licensed by the Department makes application for another facility or activity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or activity.

C. A copy of the licensing standards for tattooing shall be maintained by the licensee and accessible to all staff members.

D. No licensee who has been issued a license for a facility at a specific address shall establish a new facility without first obtaining authorization from the Department. (I)

E. Issuance and Terms of License.

1. A license is issued by the Department and shall be displayed in a conspicuous place in a public area in the facility.

2. The facility shall maintain a business address and telephone number at which the facility may be reached during business hours.

3. The issuance of a license does not guarantee adequacy of individual care, treatment, procedures, and/or services, personal safety, fire safety or the well-being of any client.

4. A license is not assignable or transferable and is subject to revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this State.

5. A license shall be effective for a specific facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. Except for temporary locations, a license shall remain in effect until the Department notifies the licensee of a change in that status.

F. Application.

1. Applicants for a tattoo facility license shall submit to the Department:

a. A completed application on a form prescribed and furnished by the Department prior to initial licensing and annually thereafter. The application includes the applicant's oath, assuring that the contents of the application are accurate and true and that the applicant will comply with this regulation. The application shall be signed by the owner(s) of the facility if an individual or partnership; in the case of a corporation, by two of its officers. Corporations or limited partnerships shall be registered with the S.C. Office of the Secretary of State;

b. A certified copy of an ordinance passed by the local governing body where the business will be located that authorizes the tattooing of persons within its jurisdiction;

c. A written statement that the applicant has advertised in the legal section of a newspaper nearest the location of the business at least once a week for three consecutive weeks, in compliance with S.C. Code Ann. Section 44-34-110(C) (1976, as amended), of their intent to apply for a tattoo facility license;

d. A copy of the business license, as applicable;

e. A licensing fee and a certification fee, if applicable;

f. Written acknowledgement of compliance with all applicable federal OSHA requirements or guidelines, and copies of certificates attesting to the successful completion by tattoo artists of courses in:

(1) Bloodborne pathogens as approved by the Department;

(2) Tattoo infection control as approved by the Department;

(3) American Red Cross First Aid;

(4) Adult cardiopulmonary resuscitation (CPR) from the American Red Cross or the American Heart Association.

g. Written evidence that the individual(s) performing tattooing procedures is an experienced tattoo artist as defined in Section 101.L., or that the individual is a tattoo artist trainee as defined in Section 101.NN.;

h. A description of the method of discharge of dyes, inks, and pigments including written authorization for this discharge from the local wastewater treatment plant or statement from landfill that disposal is in accordance with its waste acceptance plan (see Section 1205.C.);

i. A written agreement with a public fire department arranging for emergency response in case of fire, if applicable (see Section 1401.);

j. A legible facility floor plan, drawn to scale. The floor plan shall include location of the work station(s) and the identification of sterilization equipment. Preparation by an architect is not required.

2. A license shall not be granted nor issued to a tattooing business, nor shall a business conduct tattooing operations within 1,000 feet of a church, school, or playground. This distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground. These restrictions shall not apply to the renewal of an existing license or to ownership changes for locations that are licensed at the time the application is filed with the Department.

3. Mobile units shall have a permanent mailing address; licenses will indicate that address, and that the facility is mobile. Schedules of mobile locations shall be submitted three months in advance to the Department's Division of Health Licensing and shall include written evidence that the mobile unit is in compliance with the location requirements in Sections 201.F.1.b., 201.F.1.c., 201.F.1.d., and 201.F.2.

4. Temporary locations shall have a permanent mailing address. Licenses will indicate the address of the temporary location and that the license is temporary for a specified number of work stations for a specified length of time.

G. Licensing and Certification Fees. Fees shall be made payable by check or money order to the Department and shall be used exclusively in support of activities pursuant to this regulation.

1. A nonrefundable initial and annual license fee of \$400 plus \$50 for each additional tattoo work station over eight shall be submitted to the Department, which may charge an additional amount, if necessary, to cover the cost of inspection or investigation.

2. An applicant for a new license shall pay an initial certification fee of \$50 to determine if the exemptions provided for in Section 201.F.2. (above) are met. There will be no certification fee for applicants seeking licensing for mobile units.

3. Late Fee. Failure to submit a renewal application or fee after the license expiration date may result in a late fee of 25% of the licensing fee amount in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time period specified by the Department may result in an enforcement action.

4. License Renewal. For a license to be renewed, applicants shall file an application with the Department, pay a licensing fee, and shall not be under consideration for or undergoing enforcement actions by the Department. If the license renewal is delayed due to enforcement actions, the renewal license shall be issued only when the matter has been resolved satisfactorily by the Department or when the adjudicatory process is completed, whichever is applicable. If an application is denied, a portion of the fee shall be refunded based upon the remaining months of the licensure period, or \$75, whichever is greater. Licenses for temporary locations shall not be renewed.

H. Change of License. A licensee shall request issuance of a new or amended license by application to the Department prior to any of the following circumstances:

1. Change of ownership of the facility; or
2. Change of facility location (mobile facilities must comply with Section 201.F.2. (above) by a written statement of such compliance);
3. Changes in the number of tattoo work stations in the facility;
4. Changes in address as notified by the post office shall be accomplished by application or by letter from the licensee.

I. This regulation does not restrict the activities of a physician or surgeon licensed pursuant to the laws of this State.

J. Tattoo artists shall perform tattooing only in licensed facilities. (I)

202. Exceptions to the Standards

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the clients will not be compromised and provided the standard is not specifically required by statute.

SECTION 300 - ENFORCING REGULATIONS

301. General

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation in order to enforce this regulation.

302. Inspections/Investigations

A. An inspection shall be conducted prior to initial licensing of facilities and subsequent inspections shall be conducted as deemed appropriate by the Department. Regulatory-related accreditations may be considered in determining the appropriateness of Department inspections.

B. All facilities are subject to inspection or investigation at any time without prior notice, by individuals authorized by the Department.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records that are pertinent to the operation of the facility and have the authority to require the licensee to provide photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used for purposes of enforcement of regulations, and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. (II)

D. A licensee found noncompliant with the standards of this regulation shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar);
3. The actual or expected completion dates of those actions.

E. Reports of inspections or investigations conducted by the Department, including the response(s) by the facility, shall be made available to the public upon written

request with the redaction of the names of those individuals in the report as provided by S.C. Code Ann. Sections 44-7-310 and -315 (1976, as amended).

303. Consultations

Consultations may be provided by the Department as requested by the facility or as deemed appropriate by the Department.

SECTION 400 - ENFORCEMENT ACTIONS

401. General

When the Department determines that a licensee is in violation of any statutory provision, rule, or regulation relating to the operation of a facility, the Department, upon proper notice to the licensee, may impose a monetary penalty and/or deny, suspend, revoke, or refuse to issue or renew a license.

402. Violation Classifications

Violations of standards in regulation are classified as follows:

A. Class I violations are those that the Department determines present an immediate threat to the health, safety, or well-being of persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department may be considered a subsequent violation;

B. Class II violations are those, other than Class I violations, that the Department determines have a negative impact on the health, safety or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation;

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation;

D. The notations, "(I)" or "(II)," placed within sections of this regulation, indicate those standards are considered Class I or II violations if they are not met, respectively. Standards not so annotated are considered Class III violations.

E. In arriving at a decision to take enforcement actions, the Department will consider the following factors: the number and classification of violations, including repeat violations; specific conditions and their impact or potential impact on health, safety or well-being of the clients; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee's character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to statutes and regulations.

F. Any decision by the Department to grant, deny, revoke, suspend, refuse to renew a license, or impose monetary penalties may be appealed by a party with standing pursuant to the Administrative Procedures Act, S.C. Code Ann. Section 1-23-310 (1976, as amended).

**Frequency of violation
of standard within a
36-month period:**

MONETARY PENALTY ACTIONS

| FREQUENCY | CLASS I | CLASS II | CLASS III |
|--------------------------------|----------------|-----------------|------------------|
| 1st | \$500 - 1,500 | \$300 - 800 | \$100 - 300 |
| 2nd | 1,000 - 3,000 | 500 - 1,500 | 300 - 800 |
| 3rd | 2,000 - 5,000 | 1,000 - 3,000 | 500 - 1,500 |
| 4th | 5,000 | 2,000 - 5,000 | 1,000 - 3,000 |
| 5th | 7,500 | 5,000 | 2,000 - 5,000 |
| 6th and more | 10,000 | 7,500 | 5,000 |

SECTION 500 - POLICIES AND PROCEDURES

501. General (II)

A. Policies and procedures addressing each section of this regulation regarding client procedures or services, rights, infection control, the operation of the facility, including emergency procedures in the event of an adverse reaction shall be developed and implemented by the facility, and revised as appropriate in order to accurately reflect actual facility operation. Facilities shall establish a time-period for review of all policies and procedures. These policies and procedures shall be accessible printed or electronically at all times.

B. The policies and procedures shall describe the means by which the facility shall assure that the standards described in this regulation, which the licensee has agreed to meet as confirmed by his or her application, are met.

C. A legible notice informing patrons of any disqualification which tattooing may confer upon a prospective blood donor according to the standards of the American

Association of Blood Banks shall be conspicuously displayed in a public area of the facility.

SECTION 600 - STAFF

601. General (II)

A. Staff members at the facility shall be trained in order to provide any emergency on-site action that may arise. Training requirements and qualifications for the tasks each performs shall be in compliance with all local, state, and federal laws, and professional organizational standards.

B. A tattoo artist shall be at least 21 years of age and shall not be under the influence of any substance that would impair his or her ability to perform tattooing. (I)

C. Administrator.

1. The licensee shall ensure that there is an administrator responsible for the day-to-day operation of the facility to ensure compliance with these regulations.

2. An individual shall be designated, in writing, to act in the absence of the administrator.

3. The administrator and a facility tattoo artist may be the same individual.

D. All new staff members shall be oriented to acquaint them with the organization and environment of the facility, their specific duties and responsibilities (including the necessary training to perform the duties), and clients' needs.

E. Accurate information shall be maintained regarding all staff members of the facility, to include at least current address, phone number, hepatitis B vaccination results, work, and training background. All staff members shall be assigned certain duties and responsibilities that shall be in writing and in accordance with the individual's capability and training.

F. Prior to independently performing tattooing procedures, a tattoo artist trainee shall have a minimum of 1000 hours of tattoo procedures training during the last 36 months under the direct supervision of an experienced tattoo artist who shall sign and maintain a written statement attesting to the completion of such training.

602. Inservice Training (II)

A. Prior to performing tattoo procedures, tattoo artists shall have the following training as approved by the Department:

1. Bloodborne pathogens, and annually thereafter;

2. Tattooing infection control, and annually thereafter;
3. Current certifications in:
 - a. Adult CPR (American Red Cross or the American Heart Association); and
 - b. American Red Cross First Aid.

B. A tattoo artist must conspicuously display in a public area at the facility the certificates of successful completion of a course in CPR, First Aid, bloodborne pathogens, and tattoo infection control.

SECTION 700 - REPORTING

701. Incidents/Accidents (II)

A. A record of each accident and incident involving clients, or staff occurring in the facility shall be retained. Incidents or accidents resulting in serious medical conditions, *e.g.*, lacerations, hematomas, actual or suspected abuse of clients by staff, in which the client is hospitalized, shall be reported via telephone to the next-of-kin or responsible person at the earliest practicable hour, but not to exceed 24 hours of the occurrence, and in writing to the Department's Division of Health Licensing within 10 days of the occurrence.

B. Reports shall contain at a minimum: facility name, staff member name, client age and sex, date of incident or accident, location, witness names, identified cause of incident or accident, extent and type of injury and how treated, *e.g.*, hospitalization, and the date of the report.

702. Fire/Disasters (II)

Any fire or natural disaster in the facility shall be reported to the Division of Health Licensing via telephone or fax immediately, with a complete written report that includes the fire report from the local fire department, if appropriate, submitted within a time-period as determined by the facility, but not to exceed 72 hours.

703. Administrator Change (II)

The licensee shall notify the Division of Health Licensing in writing within 10 days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual and effective date of the appointment.

704. Facility Closure

A. Prior to permanent closure of a facility, the Department's Division of Health Licensing shall be notified in writing of the intent to close and the effective closure date. Within 10 days of closure, the facility shall notify the Division of Health Licensing of the provisions for the maintenance of the records. On the date of closure, the current original license shall be returned to the Division of Health Licensing.

B. In cases where a facility temporarily closes, the Division of Health Licensing shall be given written notice within a reasonable time in advance of closure. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the facility prior to its reopening. If the facility is closed for a period longer than one year, and plans to re-open, the facility shall re-apply to the Department and shall be subject to all licensing requirements in effect at the time of that application, including construction-related requirements for a new facility.

SECTION 800 - CLIENT RECORDS

801. Content (II)

A. The facility shall initiate and maintain a record for every client. All entries shall be written legibly in ink or typed, signed and dated, and shall identify the author.

B. Specific entries shall include at a minimum:

1. Identification of the client including a means of verification of client's identity, e.g., a copy of the identification picture;

2. Explanation of client rights (see Section 1000), as evidenced by the tattoo artist and client signature, including a clearly legible notice informing him or her of any disqualification which tattooing may confer upon a prospective blood donor according to the standards of the American Association of Blood Banks;

3. Tattoo procedure performed, to include the site of the tattoo;

4. Procedures followed if an unexpected event occurs and emergency procedures taken if there is an adverse reaction;

5. Parental consent, if applicable;

6. Physician or other legally authorized healthcare provider signed statement that the tattoo procedure is not contraindicated, if applicable (see Section 901.H.).

C. The facility shall obtain a client's signed statement attesting that he or she is not intoxicated or under the influence of drugs or alcohol.

D. There shall be a release/aftercare note completed at the time of release, which shall include at minimum:

1. The date and time of release, including client's condition at release;
2. The aftercare suggestions for the specific tattoo site, with a copy provided to the client;
3. The signature of the client indicating receipt of the release/aftercare note.

802. Record Maintenance

A. The facility shall provide accommodations, space, supplies, and equipment adequate for the protection and storage of client records.

B. The client record is confidential. Records containing protected or confidential information shall be made available only to individuals granted access to that information, in accordance with state and federal laws. The facility shall have a written policy designating the persons allowed to access confidential client information. (II)

C. Client records shall be maintained for at least six years following the release of the client. Other documents required by the regulation, *e.g.*, endospore testing, shall be retained at least 12 months or until the next Division of Health Licensing inspection, whichever is longer, unless otherwise specified in this regulation. The facility shall determine the medium in which information is stored. The information shall be readily retrievable and accessible by facility staff, as needed, and for regulatory compliance inspections.

SECTION 900 - CLIENT PROCEDURES AND SERVICES PROVIDED

901. General (I)

A. A facility shall only provide tattooing and shall not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing, other than tattooing. The sale of specific tattoo aftercare goods and services is permitted.

B. A tattoo artist shall verify by means of a picture identification that a client is at least 21 years of age and shall not perform or offer to perform tattooing upon a person under the age of 21 years, unless the person is at least 18 and has parental consent.

1. A person who has his or her body tattooed while under the age of eighteen, in violation of the S.C. Code of Laws, may bring an action in the circuit court against the person convicted of the violation to recover actual damages and punitive damages plus costs of the action and attorney's fees.

2. The minor upon whom tattooing is performed, or the parent or legal guardian of that minor, or any other minor is not liable for punishment pursuant to S.C. Code Ann. Section 44-34-100 (1976, as amended).

C. The facility shall perform tattooing only for those persons for which the facility can provide the appropriate accommodations and services.

D. Tattooing shall be rendered safely.

E. Tattooing shall not be performed upon a person impaired by drugs or alcohol. A person impaired by drugs or alcohol is considered incapable of consenting to tattooing and incapable of understanding tattoo procedures and aftercare suggestions.

F. Tattooing shall not be performed on skin surfaces having rash, pimples, boils, keloids, sunburn, open lesions, infections, or that manifest any evidence of unhealthy conditions.

G. A tattoo artist shall not tattoo any part of the head, face, or neck of another person.

H. Prior to performing a procedure on a client, the tattoo artist shall obtain information from the client regarding any existing condition(s) that could affect the healing process, e.g., allergies to medications, tattoo dyes or inks, or to latex, or taking medications such as anticoagulants that thin the blood and/or interfere with blood clotting. If a client indicates the presence of such a condition, the facility shall obtain documentation from a physician or other legally authorized healthcare provider that the procedure is not contraindicated prior to the tattooing procedure.

I. Inks, dyes or pigments used in tattooing shall be nontoxic, obtained from a commercial supplier or manufacturer and specifically manufactured for tattooing, and shall be used according to manufacturer's instructions and standard professional practice. Products banned or restricted by the Food and Drug Administration shall not be used.

J. The facility shall provide aftercare suggestions to the client to include but not be limited to:

1. Instructions for care following service;
2. Possible side effects;
3. Restrictions; and
4. Infection control information.

K. Clients shall be given the opportunity to participate in aftercare programs if offered by the facility. (II)

L. During all operating hours, tattooing shall not be performed unless there is an experienced tattoo artist present in the facility.

M. The tattoo artist is not authorized to remove a tattoo(s) or perform micropigmentation or permanent cosmetic procedures. Tattoo removal, micropigmentation or permanent cosmetic procedures shall be provided only by physicians or other legally authorized healthcare providers.

SECTION 1000 - CLIENT RIGHTS

1001. Informed Consent (II)

The facility shall inform the client of the potential for any risks, and/or adverse effects or consequences, *e.g.*, allergic reactions to dyes or inks, regarding the tattoo procedure(s) to be performed. In all instances of tattooing, the client must voluntarily choose, in writing, to receive the procedure.

1002. Grievances/Complaints (II)

There shall be a written grievance/complaint procedure and clients shall be informed of this procedure, including the address and phone number of the Department's Division of Health Licensing.

1003. Procedures and Charges

Tattooing procedures performed by the facility and the charges for such procedures shall be stated in writing, and the client shall be made aware of such charges and procedures as verified by his or her signature, prior to the procedure.

SECTION 1100 - MAINTENANCE

1101. General (II)

The facility, including its component parts and equipment, shall be properly maintained to perform the functions for which it is designed.

SECTION 1200 - INFECTION CONTROL AND ENVIRONMENT

1201. Staff Practices (I)

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances and for the sanitization of surfaces with an appropriate sanitizing

solution. These preventive measures or practices shall be in compliance, as applicable, with OSHA Bloodborne Pathogens Standards, the Department's R.61-105, applicable guidelines of the CDC, other applicable federal, state, and local laws and regulations, and other professionally recognized organizations.

1202. Hepatitis B Vaccination (I)

All tattoo artists shall have the hepatitis B vaccination series, or be offered the series and decline, in writing.

1203. Infection Control (I)

A. A tattoo artist shall utilize the following infection control measures:

1. Before and after each tattoo procedure, wash his or her hands thoroughly for a minimum of 20 seconds with water and a liquid germicidal solution approved by the Department, used in accordance with the manufacturer's directions, and dry them with single-use disposable paper towels or electric air dryer;

2. When necessary to perform a procedure on individuals who must undergo shaving of hair, utilize a single-use disposable razor;

3. The site of the tattoo shall be cleaned in a sterile surgical manner with a liquid germicidal solution approved by the Department and used in accordance with the manufacturer's direction and then swabbed with a disinfectant before tattooing;

4. Utilize single-use sterile disposable gloves when setting up equipment and performing procedures on a client and immediately replace upon notice of a tear, any contamination, or other defect;

5. Prior to any direct contact with the client, place in a sterile manner all sterile instruments and sterile tattoo items on a sterile disposable towel or drape to be used as a single sterile field throughout the procedure;

6. When conducting a procedure, use single-use disposable needles and injection equipment which are designated and sterilely packaged as single-use only; these needles and injection equipment shall not be cleaned or reused in any manner on another client;

7. Re-gloving with single-use sterile disposable surgical gloves must occur prior to initiation of the procedure, which is to be performed using aseptic techniques. Any contamination of the instruments or field shall immediately result in cessation of the procedure and nonuse of sterilized equipment until re-sterilized;

8. At all times when preparing the skin and while applying the actual tattoo, the tattoo artist shall wear single-use sterile disposable surgical gloves, which must be discarded upon completion of the tattoo;

9. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers; these used containers shall be labeled with the Universal Biohazard Symbol and the word "BIOHAZARD" and be disposed of in a manner prescribed by the Department;

10. The work station shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment and any other item that must be protected to prevent cross-contamination.

B. The use of gauze, alum, styptic pencils, or medical supplies considered necessary to control bleeding is permissible provided that a separate disposable single-use sterile item is used on each client.

C. Single-service individual containers of ink or dye shall be used for each client and the container shall be discarded immediately after completing the procedure. Any dye or ink in which the needles were dipped shall be discarded and not used on another person.

D. If pens and/or stencils are used, only clean disposable single-use pens and stencils for transferring the design to the skin shall be used.

E. If any type of ointment is used, a single-use ointment tube or applicator shall be used.

F. While tattooing all tattoo artists shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices. If lap cloths or lap towels are used, they shall be single-use.

G. Food, drink, and the use of tobacco products in the procedure and disinfection/sterilization areas shall be prohibited.

H. Live animals shall not be permitted in the procedure and disinfection/sterilization areas.

EXCEPTION: This standard does not apply to patrol dogs accompanying security or police officers, guide dogs, or other service animals accompanying individuals with a disability into the procedure area.

1204. Sterilization of Equipment (I)

A. All used equipment intended for reuse (e.g. tubes, grips) shall be properly scrubbed clean of visible materials and soaked for a minimum of 20 minutes in a liquid

germicidal solution approved by the Department, which shall be used in accordance with the manufacturer's direction. The equipment shall then be immediately placed in a mechanical ultrasonic cleanser for at least 25 minutes prior to being re-sterilized in the facility's autoclave. The ultrasonic cleanser shall be clearly labeled as "BIOHAZARDOUS" and shall be located as far apart as possible from the autoclave within the disinfection/sterilization area.

B. Facilities shall properly package and sterilize by autoclave those instruments, equipment, and other tattoo items other than inks and electrical instruments that are not single-use/disposable, include a sterile indicator, and label with the date of sterilization. Sterile items shall not be used if the package integrity has been breached.

C. Each facility shall keep a current written log for the previous two years of autoclave use, including, but not limited to, the date and time of use and results of sterilization spore test strip tests.

D. The effectiveness of the autoclave in killing bacterial endospores shall be tested at least once each month.

1205. Housekeeping (II)

The interior and exterior of the facility shall be neat, clean, and free of safety impediments, vermin, and offensive odors.

A. Interior housekeeping shall at a minimum include:

1. Cleaning each specific area of the facility;
2. Cleaning and disinfection, as needed, of equipment and supplies used and/or maintained in each area, appropriate to the area and purpose or use of the equipment or supplies;
3. Safe storage of harmful chemicals (as indicated on the product label), cleaning materials, and supplies, *e.g.*, mops, brooms, in cabinets or well-lighted closets or rooms. Such storage shall not occur in areas where sterilization equipment/supplies are stored or where sterilization or tattoo procedures are performed.

B. All garbage and waste shall be collected, stored, and disposed of in a manner designed to prevent the transmission of disease.

1. Refuse shall be stored in containers that shall be emptied at sufficient frequencies and manner so as not to create a rodent, insect, or other vermin problem. The containers shall be sanitized prior to their return to work areas.
2. Dumpsters utilized by the facility shall be enclosed/covered.

C. The discharge of dyes, inks, and pigments shall be accomplished in a safe manner with written consent prior to discharge from the local wastewater treatment plant, *i.e.*, publicly owned treatment works. Should the treatment of dyes, inks, or pigments for discharge be accomplished by the facility, or if there is direct discharge into the environment, such options shall be regulated in compliance with R.61-67 and/or R.61-9. The discharge of dyes, inks, and pigments into a septic tank system is prohibited. Small amounts absorbable in towels may be disposed of via dumpster provided the landfill waste acceptance plan permits such disposal.

D. Exterior housekeeping shall at a minimum include the cleaning of all exterior areas, *e.g.*, porches and ramps, and removal of safety impediments such as water, snow, and ice.

1206. Infectious Waste (I)

Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with the Department's R.61-105 and OSHA Bloodborne Pathogens Standards.

SECTION 1300 - EMERGENCY PROCEDURES

1301. Emergency Call Numbers (I)

Emergency call data shall be posted in a conspicuous place and shall include, in addition to "911", the telephone numbers of fire and police departments and ambulance service.

1302. Medical Emergencies (I)

Medical emergencies shall be managed in a manner to insure the health, safety and well-being of clients and staff.

SECTION 1400 - FIRE PREVENTION

1401. Arrangements for Fire Department Response (I)

Facilities located outside of a service area or range of a public fire department shall arrange, by written agreement, for the nearest fire department to respond in case of fire. A copy of the agreement shall be kept on file in the facility and a copy shall be forwarded to the Division of Health Licensing. If the agreement is changed, a copy shall be forwarded to the Division of Health Licensing.

1402. Inspections (I)

Each facility shall be inspected by the fire inspector or marshal prior to licensing and thereafter as determined by the Department.

1403. Evacuation Plan (I)

A plan for the evacuation of clients, staff members, and visitors in case of fire or other emergency shall be posted in conspicuous public areas throughout the facility.

1404. Fire Response Training (I)

Each staff member shall receive training within one week of hiring, and at a frequency determined by the facility, but at least annually thereafter, addressing at a minimum, the following:

- A. Fire plan, to include evacuation routes and procedures, and the training of staff members;
- B. Reporting a fire;
- C. Use of the fire alarm system, if applicable;
- D. Location and use of fire-fighting equipment;
- E. Methods of fire containment;
- F. Specific responsibilities and duties of each staff member.

SECTION 1500 - DESIGN AND CONSTRUCTION

1501. General (II)

The building in which equipment is utilized shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each client.

1502. Local and State Codes and Standards (II)

Buildings shall meet requirements for "Business Occupancy," and shall comply with State Fire Marshal regulations and pertinent local and state laws, codes, ordinances, and standards with reference to design and construction. No facility shall be licensed unless the Department has written assurance that responsible local officials (zoning and building) have approved the structure in which tattooing procedures will be performed.

SECTION 1600 - FACILITY ACCOMMODATIONS

1601. General (II)

A. A facility shall include an area for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the area used for tattoo procedures to

avoid cross-contamination of equipment. These areas shall be separated from each other and from waiting clients by a door, divider, curtain, wall or partition. The work station shall be sized to accommodate necessary equipment or supplies, staff, and procedure table, but not less than 64 square feet of floor space, exclusive of fixed cabinets or shelves. The work station shall be utilized exclusively for tattooing. Multiple tattoo work stations shall be separated by dividers, curtains, walls or partitions.

1. Wall surfaces of the work station and disinfection/sterilization areas shall be nonporous and easily cleanable. Flooring in each area must be composed of material which is sanitizable.

2. A separate, properly identified sink (with hot and cold running water) used for disinfection practices only shall be located in the disinfection/sterilization area.

3. At least one sink (with hot and cold running water) shall be provided for every five work stations for hand washing. Adjacent to each sink there shall be a wall-mounted single-use paper dispenser or electric air dryer. Restroom sinks are included in this one-to-five ratio.

B. Procedure tables shall be constructed of a nonporous, sanitizable material.

C. A standard first aid kit or equivalent first aid supplies shall be readily accessible in the facility and shall contain as a minimum:

1. 4" X 4" gauze pads;
2. Benzalkonium swabs;
3. 2" X 2" gauze pads;
4. Gauze roller bandage;
5. Cardio-pulmonary resuscitation (CPR) mouth barrier device;
6. Eyewash solution;
7. Smelling salts or ammonia inhalants.

D. Medications shall be properly stored in a manner which provides for separation between topical and oral medications and from other supplies and safeguarded to prevent access by unauthorized persons. Medication storage areas shall be of sufficient size for clean and orderly storage and shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life. Expired and out-dated medications and supplies shall be removed from the facility and destroyed. (I)

E. Lighting in the procedure and disinfection/sterilization areas shall be not less than 100 foot-candles.

F. Emergency electric services shall be provided for work station illumination, corridor egress, and exit sign lighting.

G. Adequate potable water for the needs of the facility shall be provided from an approved source and shall be available and accessible to clients.

H. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.

1602. Restrooms (II)

A. There shall be an appropriate number of restrooms in the facility, to accommodate clients, staff, and visitors. The minimum requirement is one toilet fixture for every five tattoo work stations.

B. The restrooms shall be accessible during all operating hours of the facility.

C. A restroom(s) shall be equipped with at least one toilet fixture, toilet paper installed in a holder, a sink equipped with wrist or foot operated or touchless controls and supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle. Equipment and supplies used in the course of tattoo procedures or disinfection and sterilization procedures shall not be stored or utilized in the restroom.

D. Restroom floor areas shall not be less than 15 square feet.

E. There shall be at least one sink per every two toilet fixtures located within a restroom.

F. Privacy shall be provided at toilet fixtures and urinals.

G. Facilities for persons with disabilities shall be provided as required by codes whether or not any of the staff or clients are classified as disabled.

H. All restroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

1603. Location

A. Transportation. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. The facility shall have a parking area to reasonably satisfy the needs of clients, staff members, and visitors.

C. Access to firefighting equipment. Facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

SECTION 1700 - FIRE PROTECTION EQUIPMENT AND SYSTEMS

1701. Firefighting Equipment (I)

Firefighting equipment such as fire extinguishers, standpipes and automatic sprinklers shall be provided as required by the State Fire Marshal.

1702. Flammable Liquids (I)

The storage and handling of flammable liquids shall be in accordance with NFPA 30 and 99.

1703. Furnishings/Equipment (I)

A. The physical plant shall be maintained free of fire hazards and impediments to fire prevention.

B. No portable electric or unvented fuel heaters shall be permitted at the facility location except as permitted by the State Fire Marshal Regulations.

C. Wastebaskets, window dressings, portable partitions and dividers, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant in accordance with NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films.

EXCEPTION: Window blinds require no flame treatments or documentation thereof.

SECTION 1800 - MOBILE UNITS AND TEMPORARY LOCATIONS

1801. General (II)

All mobile units and temporary locations shall meet the standards of this regulation. Mobile units shall meet the standards of the state, federal, and local departments of transportation for the permitting and safe operation of the unit. Mobile units and temporary locations shall not be located within 1,000 feet of a church, school, or playground.

SECTION 1900 - SEVERABILITY

1901. General

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

SECTION 2000 - GENERAL

2001. General

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

INDEX

| TOPIC | PAGE |
|---|---------------------------|
| Accidents..... | 16 |
| Administrator..... | 12, 15, 16 |
| Adult Cardiopulmonary Resuscitation | 10, 16 |
| Aftercare | |
| Goods And Services | 18 |
| Note | 18 |
| Programs | 20 |
| Suggestions | 4, 18, 19 |
| Air Dryer..... | 26 |
| American Association Of Blood Banks | 7, 15, 17 |
| Animals, Live..... | 22 |
| Application | |
| Initial | 9 |
| Renewal | 11 |
| Autoclave | 23 |
| Barrier Film..... | 22 |
| Benzalkonium Swabs | 26 |
| Biohazard | 4, 22 |
| Bloodborne Pathogens..... | 8, 10, 15, 21, 24 |
| Business Occupancy..... | 25 |
| Cardio Pulmonary Resuscitation | 26 |
| Centers For Disease Control..... | 8 |
| Charges, Tattoo | 20 |
| Chemicals | 23 |
| Church..... | 4, 10, 28 |
| Client Records..... | 17, 18 |
| Client Rights..... | 17 |
| Closure..... | 17 |
| Complaints | 20 |
| Confidential Information | 18 |
| Consultations | 4, 13 |
| Contamination | 4 |
| CPR..... | 10, 16, 26 |
| Cross-Contamination..... | 22, 26 |
| Definitions | 4 |
| Disasters | 16 |
| Disinfection..... | 4, 21, 22, 23, 25, 26, 27 |
| Dumpsters..... | 23 |
| Dyes | 7, 10, 19, 20, 22, 24 |
| Emergency Call Numbers | 24 |
| Emergency Electric Services..... | 27 |
| Enforcement Actions | 13 |
| Evacuation Plan | 25 |

| | |
|---------------------------------|------------------------|
| Exceptions..... | 12 |
| Facility | |
| Closure..... | 16 |
| Maintenance | 20 |
| Fees | 11 |
| Fire..... | 16 |
| Fire Department | 10, 16, 24 |
| Firefighting Equipment | 28 |
| First Aid | 10, 16 |
| Kit..... | 26 |
| Supplies | 26 |
| Flammable Liquids | 28 |
| Floor Plan..... | 10 |
| Germicidal Solution | 21, 23 |
| Gloves, Sterile..... | 4, 21, 22 |
| Grievances | 20 |
| Grips..... | 5, 22 |
| Hand Washing..... | 26 |
| Heaters..... | 28 |
| Hepatitis B Vaccination | 21 |
| Housekeeping | 23 |
| Identification Picture | 17 |
| Incidents..... | 16 |
| Index | 30 |
| Infection Control | 10, 16, 19, 21 |
| Infectious Waste..... | 24 |
| Informed Consent..... | 20 |
| Injection Equipment..... | 5, 21 |
| Inks..... | 10, 19, 20, 22, 23, 24 |
| Inservice Training..... | 1, 15 |
| Inspections | 12 |
| Investigations | 12 |
| License | |
| Change Of..... | 11 |
| Renewal..... | 11 |
| Requirements..... | 8 |
| Liquid Germicidal Solution..... | 21, 23 |
| Maintenance..... | 20 |
| Medications | 26 |
| Micropigmentation | 5, 20 |
| Minor | 6, 19 |
| Mobile Unit | 6, 10, 11, 28 |
| Needles | 6, 21, 22 |
| Newspaper Advertisement | 9 |
| NFPA | |
| 30..... | 8, 28 |

| | |
|-------------------------------|---------------|
| 701 | 8, 28 |
| 99 | 8, 28 |
| Ointment..... | 22 |
| Ordinance, Local | 9 |
| OSHA | 8, 10, 21, 24 |
| Paper Dispenser | 26 |
| Parental Consent | 6, 17, 18 |
| Parking | 28 |
| Penalty Actions | 14 |
| Permanent Cosmetics | 5, 20 |
| Pigments | 7, 10, 19, 24 |
| Playground | 6, 10, 28 |
| Policies And Procedures | 14 |
| Procedure Table..... | 26 |
| Refuse..... | 23 |
| Regulation | |
| R.61-105 | 7, 21, 24 |
| R.61-67 | 7, 24 |
| R.61-9 | 7, 24 |
| Release/Aftercare Note | 18 |
| Removal Of A Tattoo..... | 20 |
| Restrictions | 10 |
| Restrooms | 27 |
| School | 6, 10, 28 |
| Sharps..... | 6, 22, 24 |
| Single-Use..... | 6 |
| Sinks | 26, 27 |
| Spore Test..... | 23 |
| Staff..... | 6, 8, 18, 20 |
| Accidents | 16 |
| Emergency Training..... | 15 |
| Evacuation Plan | 25 |
| Fire Response Training..... | 25 |
| Incidents..... | 16 |
| Information..... | 15 |
| Medical Emergencies..... | 24 |
| Orientation | 15 |
| Practices | 20 |
| Records Accessible By | 18 |
| Restrooms..... | 27 |
| Stencils..... | 22 |
| Sterile | 7, 23 |
| Sterilization..... | 7, 22 |
| Sterilization Equipment..... | 10, 23 |
| Sterilize | 7 |
| Storage | |

| | |
|---------------------------------|--|
| Chemicals | 23 |
| Client Records | 18 |
| Flammable Liquids | 28 |
| Medications..... | 26 |
| Table Of Contents | 1 |
| Tattoo Artist..... | 4, 7, 10, 15, 16, 17, 18, 19, 20, 21, 22 |
| Experienced | 4, 7, 10, 15, 20 |
| Procedures Training..... | 7, 15 |
| Trainee..... | 7, 10, 15 |
| Temporary Location | 7, 9, 10, 11, 28 |
| Training | 15 |
| Fire Response..... | 25 |
| Tattoo Procedures | 7 |
| Tubes | 5, 22 |
| Ultrasonic Cleanser | 23 |
| Violations..... | 13 |
| Waste | 10, 23, 24, 27 |
| Wastewater Treatment Plant..... | 10, 24 |
| Work Station..... | 7, 10, 11, 22, 26, 27 |